



No. 8

June 14, 2005

## S. 10 – Energy Policy Act of 2005

Calendar No. 121

*Reported as an original bill from the Senate Energy and Natural Resources Committee on June 9, 2005 by a vote of 21-1 (Senate Wyden voted no); S. Rept. 109-78; additional views filed.*

### NOTEWORTHY

- Under a unanimous consent agreement reached on June 9, the Senate today will proceed to the consideration of H.R. 6, the House-passed energy policy bill, and S. 10, the bill reported by the Senate Energy Committee, will be offered and accepted as a substitute. S. 10 will be considered as original text for the purpose of further amendment. The unanimous consent agreement does not provide a time agreement or limit amendments.
- The Energy Policy Act intends to provide a comprehensive national energy policy that balances domestic energy production with conservation and efficiency efforts to enhance the security of the United States and decrease dependence on foreign sources of oil.
- The bill contains numerous production incentives for oil and gas exploration, and establishes programs to maintain the nation's coal production capacity.
- The bill fully funds President Bush's Clean Coal Power Initiative and extends Price-Anderson Act liability protections for Nuclear Regulatory Commission licensees, Department of Energy contractors, and non-profit educational institutions for 20 years.
- The bill includes an electricity title, which terminates the Federal Energy Regulatory Commission's (FERC) standard market design rulemaking, amends the Public Utility Regulatory Policies Act of 1978, repeals the Public Utility Holding Company Act of 1935, and includes utility merger and acquisition oversight authority for FERC.

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## Highlights

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S. 10 contains 768 pages and is divided into 14 titles. In addition to the points mentioned on page 1 of this Notice, highlights of key provisions are as follows:

- Includes an Electricity Title that would reduce regulatory uncertainty, promote transmission infrastructure development and security, and increase consumer protections. It protects transmission access for native load customers and authorizes FERC to exercise limited jurisdiction over unregulated transmitting utilities (like municipals and cooperatives) to ensure open access to the transmission grid.
- Authorizes a 20-year extension of the Price-Anderson Act; increases the maximum annual assessment under the standard deferred premium on NRC licensees from \$10 million to \$15 million; increases the overall cap from \$63 million to \$95.8 million; and adjusts for inflation in the future. It sets the total amount of indemnification for DOE contractors at \$10 billion, and increases indemnification for DOE contractors engaged in nuclear activities outside the U.S. from \$100 million to \$500 million.
- Authorizes the President's Clean Coal Power Initiative, which provides \$200 million annually to be applied to clean coal research in coal-based gasification technologies.
- Assists Indian Tribes in the development of Indian energy resources by increasing the Tribes' internal capacity to develop their own resources by providing grants and technical assistance, and streamlining the Tribal leasing process so that outside parties have more incentive to partner with Tribes in developing energy resources.
- Authorizes basic research, development, and demonstration activities related to hydrogen energy, fuel cells, and related infrastructure.
- The bill includes a Renewable Fuel Standard, but does not include climate provisions or a Renewable Portfolio Standard, and does not impose additional fuel efficiency standards on passenger vehicles, light trucks, sport utility vehicles, or minivans. However, it is anticipated the amendments will be offered related to each of these items.
- On April 21, the House passed H.R. 6, the Energy Policy Act of 2005, by a vote of 249-183. The bill contains provisions on oil and gas exploration in ANWR, electricity restructuring, extension of Price-Anderson indemnification authority, Indian energy, oil and gas royalty relief, clean coal and hydrogen research, and liability protections for producers of MTBE.

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## Background

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Nearly five decades ago, energy demand in the United States began to exceed domestic supply, and the Department of Energy projections indicate that the disparity between energy supply and demand will continue to grow. This gap between supply and demand places pressure on the market and leads to rising energy prices and economic problems. A combination of energy production, conservation, efficiency, and development of new technologies can help to close the supply-and-demand imbalance.

U.S. oil production is at a 50-year low and continues to decline, while reliance on foreign oil increases. Currently, the United States consumes roughly 19 million barrels of oil per day – 12 million in the transportation sector alone. Demand in the transportation sector is projected to grow to more than 20 million barrels per day by 2025.

Natural gas production in the U.S. is expected to grow about 1.5 percent per year over the next 20 years. Coal production is also expected to increase 1.5 percent over the same period. Natural gas currently provides 24 percent of all energy consumed in the U.S. and nearly one-fifth of all electricity generation. Demand for natural gas is expected to outpace supply. Coal remains the primary and most efficient fuel for electricity generation, currently accounting for over half of all electric generation in the U.S. Neither coal nor natural gas is expected to offset the overall gap between energy supply and energy demand.

The U.S. has the 12<sup>th</sup> highest proven oil reserves in the world, with 65 percent of those reserves concentrated in Alaska and the Gulf of Mexico. The lower 48 states, including the Gulf of Mexico, hold a tremendous supply of natural gas.

Obstacles to development of U.S. energy resources include regulatory hurdles, price volatility, and lack of infrastructure. Development of energy resources on Federal land as well as on Indian lands can be encouraged through regulatory streamlining and economic incentives. As these market trends continue to evolve, Congress has begun to look at possible solutions to close the supply-demand gap.

In the 108<sup>th</sup> Congress, the principle legislative vehicle for a national energy policy was H.R. 6, which the House passed on April 11, 2003. The Senate Energy and Natural Resources Committee conducted several hearings, examining various aspects of energy. On April 30, 2003, the Committee voted to report favorably an original bill. On May 6, 2003, the Senate began several months of debate over S. 14, agreeing to approximately 20 amendments. On July 31, 2003, in lieu of further action on S. 14, Senator Frist laid H.R. 6 before the Senate by unanimous consent and introduced Amendment 1537, which struck the text of the House-passed bill and inserted the text of H.R. 4 from the 107<sup>th</sup> Congress, as passed by the Senate on April 25, 2002. On July 31, 2003, the Senate passed the House energy bill, H.R. 6 as amended by Amendment 1537. On November 18, 2003, the conference report was filed (H. Rept. 108-375), and the House passed it that same day. The Senate began debate on the conference report on November 19, 2003. On November 21, 2003, the motion to end debate failed, and the conference report

was not agreed to by the Senate. The Senate did not return to the conference report during the remainder of the 108<sup>th</sup> Congress.

During the 109th Congress, the Energy Committee conducted several hearings examining various aspects of energy. On February 15, the Committee conducted a hearing on the Future of Liquefied Natural Gas: Siting and Safety; on March 8, the Committee conducted a hearing on Power Generation Resource Incentives and Diversity Standards; on April 12, the Committee conducted a hearing on the Development of America's Oil Shale Resources; and on April 26, the Committee conducted a hearing on the Department of Energy's Nuclear Power 2010 Program. In addition, the Committee conducted a series of meetings on issues to be addressed in comprehensive energy legislation. On January 24, the Committee met to discuss Natural Gas; on March 10 and April 21, to discuss Coal; and on April 5, to discuss Water Supply and Resource Management.

After conducting five business meetings to consider comprehensive energy policy legislation on May 26, the Energy Committee voted to report favorably S. 10.

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## Bill Provisions

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### **Title I – Energy Efficiency**

#### ***Subtitle A – Federal Programs***

Establishes requirements to reduce energy use in Federal buildings and energy and water use in Congressional buildings. Federal buildings are required to improve energy efficiency by 20 percent over 2004 levels by 2015. Requires Federal buildings to install advanced metering devices to measure energy use and to assist in devising plans to reduce energy costs and consumption, and mandates procurement of energy efficient products.

#### ***Subtitle B – Energy Assistance and State Programs***

Authorizes the expenditure of \$1.23 billion for Weatherization assistance for fiscal years 2006 through 2008. Provides energy conservation and efficiency assistance to States, rebates to consumers who purchase Energy Star products (EPA's seal of approval for energy-efficient products), and grants to low-income community energy efficiency pilot programs.

#### ***Subtitle C – Energy Efficient Products***

Establishes a program to identify and promote energy efficient products and buildings, and various education programs on energy efficiency. Establishes energy-conservation standards for numerous consumer and commercial products. Seeks to improve energy efficiency labeling requirements. Directs a study to be conducted on State and regional policies that

promotes cost-effective programs to reduce energy consumption, and authorizes \$5 million for each fiscal year from 2006 to 2010 to establish energy efficiency pilot programs.

***Subtitle D – Measures to Conserve Petroleum***

Directs the President to develop and implement measures throughout the economy to reduce total demand for petroleum by 1 million barrels per day.

***Subtitle E – Energy Efficiency in Housing***

Encourages energy efficiency improvements in public housing.

**Title II – Renewable Energy**

***Subtitle A – General Provisions***

Directs Secretary of Energy to publish a detailed inventory of renewable energy resources in the United States. Extends funding authorization for renewable power production incentive programs. Requires the Federal Government to purchase no less than 3 percent renewable electric power in fiscal years 2007 through 2009 and no less than 7.5 percent in fiscal year 2013 and thereafter. Mandates no less than 4 billion gallons of renewable motor fuel be sold in the United States in 2006, rising to 8 billion gallons in 2012. Requires Federal agencies to purchase ethanol-blended gasoline containing at least 10 percent ethanol for use in agency vehicles and biodiesel for diesel-fueled vehicles.

***Subtitle B – Insular Energy***

Directs the Secretaries of Energy and of the Interior to assess the potential to reduce dependence on fossil fuels for electricity generation and to promote distributed energy in the U.S.-affiliated insular areas.

***Subtitle C – Biomass Energy***

Authorizes appropriations of \$25 million per year for fiscal years 2006 through 2010 to each of two biomass grant programs to encourage hazardous fuels reduction and other forest restoration projects on Federal or Indian lands for biomass energy production.

***Subtitle D – Geothermal Energy***

Contains various provisions dealing with leasing and permitting of federal lands for geothermal energy production, royalty payments, assessment of geothermal resources, and so on.

### ***Subtitle E – Hydroelectric***

Addresses hydroelectric licensing and other hydropower provisions. Directs federal resource agencies (Departments of Interior, Commerce, and Agriculture) to establish procedures for on the record “trial-type” hearing on disputed issues of material fact, once mandatory conditions on hydroelectric licenses have been set. Any party to the FERC licensing proceeding can initiate the hearing but, once initiated, all disputed issues must be considered in a single hearing, lasting no more than 90 days. Provides that any party to the FERC proceedings may propose alternative conditions and prescriptions, which must be accepted if it is determined by the relevant resource agency that the alternative would reduce costs or improve the operation of the project. The natural resource agencies must document that equal consideration was given to economic, environmental, and other public impacts before imposing mandatory conditions. Should FERC determine that the mandatory conditions are inconsistent with requirements under applicable law, FERC can refer the dispute to its own dispute resolution service for a non-binding advisory.

## **Title III – Oil and Gas**

### ***Subtitle A – Petroleum Reserve and Home Heating Oil***

Permanently authorizes the Strategic Petroleum Reserve and authorizes the Secretary of Energy to fill it to its one-billion-barrel capacity. Permanently authorizes the Northeast Home Heating Oil Reserves.

### ***Subtitle B – Production Incentives***

Royalties for oil and gas leases shall be paid in-kind at the request of the Secretary of the Interior. The Secretary may receive oil and gas royalties-in-kind if doing so provides benefits to the United States greater than or equal to royalties taken in value. Sets forth conditions for royalty relief for marginal wells, natural gas production from deep wells in the shallow waters of the Gulf of Mexico, deep water production, and production in Alaska frontier. Directs the Secretary of Energy to conduct an expeditious program for competitive oil and gas leasing in the National Petroleum Reserve in Alaska, and to minimize impacts on surface resources. Establishes a program to remediate, reclaim, and close orphaned, abandoned, or idled wells on Federal lands. Requires the Secretary of the Interior to conduct an inventory and analysis of Outer Continental Shelf oil and gas resources.

### ***Subtitle C – Access to Federal Land***

Provides for simultaneous reviews by both the National Academy of Public Administration and the Department of the Interior of federal onshore leasing practices. Directs the Secretary of the Interior to ensure expeditious compliance with the requirements of the National Environmental Protection Act of 1969, to improve inspection and enforcement of oil and gas activities under the onshore oil and gas leasing program, and to implement best management practices for the onshore oil and gas leasing program. Authorizes additional

appropriations for the BLM, Fish and Wildlife Service, and Forest Service for these purposes. Requires the Secretary of the Interior to establish a Federal Permit Streamlining Pilot Project, which will contain seven Western Bureau of Land Management (BLM) offices that will coordinate with the relevant consulting Federal agencies to accelerate the permitting process. Requires the Secretary of the Interior, with respect to public lands, and the Secretary of Agriculture, with respect to National Forest System lands, to designate utility corridors in Western States and to incorporate them into land use and resource management plans.

#### ***Subtitle D – Coastal Programs***

Authorizes appropriations for fiscal years 2006 through 2010 for \$500 million per year for coastal impact assistance to coastal states for conservation, mitigation, restoration and administrative purposes.

#### ***Subtitle E – Natural Gas***

Clarifies FERC's exclusive jurisdiction for siting, construction, expansion, and operation of Liquefied Natural Gas (LNG) facilities located onshore and in State waters. Does not provide eminent domain powers. Allows owners of proposed LNG terminals to negotiate contracts for terminal services directly with prospective LNG suppliers (no open access requirements) to encourage site development. Allows FERC to grant market-based rate treatment for new storage capacity if in the public interest. Makes FERC the lead agency in the National Environmental Policy Act (NEPA) process, and agencies with jurisdiction over natural gas infrastructure are encouraged to coordinate with FERC. Bans any "manipulative or deceptive device or contrivance" in connection with jurisdictional natural gas transactions that are in violation of FERC rules. Requires FERC to establish an electronic system to provide information on the availability and price of wholesale electric energy and transmission services. Amends the Coastal Zone Management Act of 1972 to establish a 270-day period in which the Secretary of Commerce must close the decision record on its consistency determination to assure that all federally conducted or supported activities are undertaken in a manner consistent with approved state coastal zone management programs to the maximum extent practicable. The Secretary may stay the 270-day clock for up to 60 days to acquire supplemental information.

### **Title IV – Coal**

#### ***Subtitle A – Clean Coal Power Initiative***

Authorizes \$200 million per year for fiscal years 2006 through 2014 to be spent on the development of clean coal technologies such as coal gasification (80%) and other combustion technologies (20 %), and gives priority to projects that include carbon capture and sequestration as part of the project. Allows the Secretary of Energy to grant a direct loan of up to \$80 million to build a clean coal technology plant for electricity generation.

### ***Subtitle B – Federal Coal Leases***

Increases the size of leases to a maximum of 320 acres, subject to certain limitations, and allows the Secretary to extend the duration of a coal lease to beyond 40 years. Extends to no more than 20 years the aggregate number of years of any lease for which advanced royalties may be accepted in lieu of the condition of continued operation.

### ***Title V – Indian Energy***

The Conference Report assists Indian Tribes in the development of Indian energy resources by increasing Tribes' internal capacity to develop their own resources. It provides grants and technical assistance, and streamlines the approval process for Tribal leases, agreements, and rights-of-way so that outside parties have more incentive to partner with Tribes to develop energy resources. The report creates the Office of Indian Energy Policy and Programs within the Department of Energy (DOE) to support the development of tribal energy resources. The report also provides a complete substitute for Title 26 of the Energy Policy Act of 1992. The substitute authorizes the Secretary of the Interior to provide grants to tribes to develop and utilize their energy resources and to enhance the legal and administrative ability to tribes to manage their resources. It establishes a process by which an Indian tribe, upon demonstrating its technical and financial capacity, could negotiate and execute energy resource development leases, agreements, and right-of-way with third parties without first obtaining approval of the Secretary of the Interior. It allows the Secretary to review activities authorized under the Indian Mineral Development Act, and authorizes the Western Area Power Administration to make power allocations to meet the firming (providing power intended to be available at all times) and reserve needs of Indian-owned energy projects and acquire power generated by Indian tribes for firming and reserve needs, so long as the rates and terms are competitive.

## **Title VI – Nuclear Matters**

### ***Subtitle A – Price Anderson Act Amendment***

Extends authorization period for indemnification provisions for nuclear power plants for a period of 20 years. Increases the maximum annual assessment from \$10 million to \$15 million and increases the overall cap from \$63 million to \$95.8 million, which is adjusted for inflation in the future.

### ***Subtitle B – General Nuclear Matters***

Provides for the licensing of exports of highly enriched uranium for medical isotope production in Canada, Belgium, France, Germany, and the Netherlands. Requires designation of an entity within DOE to be responsible for the final disposal of greater than Class C Radioactive Waste (low-level waste) and development of a plan for disposal of such waste.



### ***Subtitle C – Next Generation Nuclear Plant Project***

Establishes a project to construct a next generation nuclear plant and authorizes \$1.25 billion for the project for the period 2006 to 2015 and such sums as are necessary for each of the fiscal years 2016 through 2021.

## **Title VII – Vehicles and Fuels**

Strengthens existing requirements that federal vehicle fleets use alternative fuels in the alternative-fuel-capable vehicles. Authorizes \$2 million per year for fiscal years 2006 through 2010 for the National Highway Traffic Safety Administration to carry out its obligations with respect to fuel economy standards. Establishes a public-private research project to develop and demonstrate technologies to increase railroad locomotive fuel economy and authorizes \$110 million over three years for the program. Authorizes \$6.2 million to promote bicycle riding, \$49.5 million over three years to reduce heavy duty engine idling, and \$5 million for each of fiscal years 2006 through 2008 to test biodiesel engines. Requires the federal government to adopt hydrogen technologies as soon as practicable.

## **Title VIII – Hydrogen**

Authorizes basic research, development, and demonstration activities related to hydrogen energy, fuel cells, and related infrastructure.

## **Title IX – Research and Development**

Defines broad research and development goals in the areas of energy efficiency, distributed energy and electric energy systems, renewable energy, nuclear energy, and fossil energy.

### ***Subtitle A – Energy Efficiency***

Authorizes programs to develop advanced solid state lighting options, to address energy conservation in buildings and evaluate secondary use of electric vehicle batteries.

### ***Subtitle B – Distributed Energy and Electric Energy Systems***

Authorizes appropriations for distributed energy and electric energy systems activities, for micro-cogeneration energy technology activities, and for a power delivery research initiative. Establishes a high-power-density industry program, authorizes grants to develop small-scale combined heat and power systems for residential applications, assistance, and demonstration of projects using distributed energy technology and highly energy-intensive commercial applications, and programs to ensure reliability and environmental integrity of electrical transmission systems.

### ***Subtitle C – Renewable Energy***

Establishes research and development programs for: bioenergy; concentrating solar power; hybrid solar lighting; ocean energy; combining renewable and other energy sources and hydrogen carrier fuels.

### ***Subtitle D – Nuclear Energy***

Authorizes the Nuclear Energy Research Initiative, Nuclear Energy Plant Optimization, Nuclear Power 2010, Generation IV Nuclear Energy Systems, Reactor Production of Hydrogen, and Nuclear Infrastructure Support Programs. Also authorizes the Advanced Fuel Cycle Initiative to evaluate proliferation-resistant fuel recycling and transmutation technologies.

### ***Subtitle E – Fossil Energy***

Authorizes research programs for oil and gas exploration and production technologies, including those with applications for heavy oil and shale, and reauthorizes methane-hydrate research. Authorizes research programs for coal-mining technologies, and coal and power systems, and carbon dioxide-capture technologies.

### ***Subtitle F – Science***

Authorizes funding for several science programs: including burning plasma fusion research; catalysis research; hydrogen research; genomes to life; fission and fusion energy materials research program; energy-water supply technologies program; and spallation neutron source research.

## **Title X – Department of Energy Management**

Sets minimum cost-sharing requirements from non-Federal sources at 20 percent for R&D and 50 percent for demonstration and commercial application; the requirement may be waived and in-kind payments may be accepted. Requires that research proposals be subject to merit review. Requires advisory boards, which may be drawn from the National Academy of Sciences, to review DOE programs at least every 5 years. Establishes a Technology Transfer Coordinator and Tech Transfer Working Group. Establishes a pilot program to encourage technology clusters in support of departmental mission areas. Promotes small business participation in procurement and research opportunities.

Establishes an Under Secretary for Science and Energy, designates the Assistant Secretary of Science as head of the Office of Science, and creates an additional Assistant Secretary position. Expresses the Sense of the Congress that leadership for departmental missions in nuclear energy should be at the Assistant Secretary level. Authorizes cash prizes in recognition of break-through achievements in research, development, demonstration, and commercial application that have the potential for application to the performance of the mission of the Department.

## **Title XI – Personnel and Training**

Requires DOE to monitor workforce trends in the energy industry, and authorizes the Secretary to establish fellowships for postdoctoral and senior researchers in energy research and development fields, and in conjunction with the Secretary of Labor to establish traineeship grants to address shortages of trained personnel. Requires the Secretary of Labor to develop model personnel training guidelines to support electric system reliability and safety.

Requires National Laboratories to increase participation of historically Black colleges or universities, Hispanic-serving institutions, or tribal colleges in activities that improve these institutions' ability to train students in scientific and technical careers. Establishes a national training center to train certified operators for electric power generation plants.

## **Title XII – Electricity**

### ***Subtitle A – Reliability Standards***

Changes the current voluntary rules for operation of the transmission grid to a mandatory rules system under an Electricity Reliability Organization (ERO). Grants the ERO the power to establish mandatory reliability standards and the authority to penalize violators.

### ***Subtitle B – Transmission Infrastructure Modernization***

Authorizes the Secretary to designate national interest electric transmission corridors, and provides eminent domain authority to establish such corridors and just compensation for any rights-of-way acquired by such authority. Authorizes the Western Area Power Administration and the Southwestern Power Administration to enter into public-private financial arrangements to build or upgrade transmission facilities. Directs FERC to encourage the deployment of advanced transmission technologies, and establishes an Advanced Power System Technology Incentive Program.

### ***Subtitle C – Transmission Operation Improvements***

Authorizes FERC to require unregulated transmitting utilities to provide open access to their transmission systems at rates that are comparable to those they charge themselves and that are not unduly discriminatory or preferential. Small, unregulated transmitting utilities and unregulated transmitting utilities that do not own or operate significant transmission facilities are exempt. Authorizes FERC to encourage the formation of transmission organizations, but prohibits FERC from requiring, or imposing as a condition, that a transmission utility transfer operational control of jurisdictional facilities to a transmission organization. Terminates FERC's Proposed Rulemaking on Standard Market Design. Entitles load-serving entities to exercise firm transmission rights or equivalent tradable or financial transmission right to the extent needed to meet their service obligation. Protects firm transmission rights of entities in the Pacific Northwest by allowing only voluntary conversion of firm transmission rights to financial transmission rights.

### ***Subtitle D – Transmission Rate Reform***

Directs FERC to issue rules on transmission pricing policies that provide a return on equity that attracts capital for investment in grid improvements and advanced transmission technologies.

### ***Subtitle E – Amendment to PURPA***

Amends the Public Utility Regulatory Policy Act to require States to consider adoption of: net metering standards (a requirement that utilities make net metering, regarding on-site energy production, measurement and billing, available to any electric consumer); fuel diversity (a requirement that utilities reduce dependency on a single fuel source and increase fuel diversity, including the use of renewables); and fossil fuel generation efficiency (a requirement that utilities implement 10 year plans to increase fossil fuel efficiency).

Amends PURPA to do the following: require States to consider implementing smart metering standards that require electric utilities to offer time based rate schedules (such as time-of-use pricing, critical-peak pricing, and real-time pricing) that enable customers to manage energy use and cost through advanced metering and communications technology; ensure that qualifying facilities meet specific criteria to be eligible for mandatory purchase and sale benefits and that such benefits terminate when a competitive wholesale market exists; and require States to consider best practices for promoting interconnection for distributed generation.

### ***Subtitle F – Market Transparency, Enforcement, and Consumer Protection***

Requires FERC to establish an electronic system to provide information on the availability and price of wholesale electric energy and transmission services, and prohibits filing of false information. Bans manipulative or deceptive device or contrivance in connection with the purchase or sale of electricity of FERC jurisdictional transmission services in violation of FERC rules. Expands the scope of who can file complaints and against whom complaints can be filed under the Federal Power Act, extends FERC's investigative authority to transmitting utilities, and increases penalties under the FPA and the Natural Gas Act. Amends FERC's authority to allow refunds under the FPA as of the date of the filing of a complaint. Requires the Federal Trade Commission to issue rules to protect electric consumers from disclosure of consumer information obtained through the sale or delivery of electricity. Establishes within DOE an Office of Consumer Advocacy to represent energy consumers on matters regarding rates and services of public utilities, and to represent natural gas companies at FERC hearings and in civil proceedings.

### ***Subtitle G – PUHCA Repeal – Merger Reform***

Repeals the Public Utility Holding Company Act of 1935 (PUHCA). Gives FERC authority to request that each holding company, associate company, or affiliate company make available accounts and records that FERC determines are relevant to costs incurred by a public utility or natural gas company and that are necessary and appropriate to protect utility customers with respect to jurisdictional rates.

Requires holding companies, associate companies, or affiliate companies to make available to state commissions books, accounts, and records that are determined to be relevant to costs incurred and that are necessary and appropriate to protect utility customers with respect to jurisdictional rates. Requires FERC to promulgate a final rule exempting from Federal books and records requirements any person that is a holding company solely with respect to a qualifying facility; wholesale generators or foreign utility companies are exempted.

Preserves the authority of FERC or a state commission to determine if a jurisdictional public utility company can recover, in rates, costs incurred through transactions with affiliates. Provides that PUHCA provisions do not apply to the U.S. government, any state or political subdivision, any foreign government authority not operating in the U.S. or any agency, authority, or instrumentality of any of the above. Preserves the authorities of FERC or state commissions under other applicable law, authorizes FERC to use its enforcement authorities under the FPA to enforce this subtitle, permits FERC to continue activities authorized as of date of enactment, and preserves its authority under FPA and the Natural Gas Act. Authorizes FERC to promulgate regulations to implement this subtitle and submit recommendations to Congress for technical and conforming amendments within four months of enactment.

Provides that the Securities and Exchange Commission is able to transfer books and records to FERC, and provides that this subtitle takes effect six months after the date of enactment. Repeals FPA section 318, dealing with conflicts in jurisdiction between PUHCA and the FPA. Expands FERC's merger review authority and increases transaction value thresholds from \$50,000 to \$10 million. Provides FERC jurisdiction over acquisitions by public-utility companies and gas utility companies. Requires FERC to consider factors such as effects on markets, rates, and regulation when evaluating whether a transaction is consistent with the public interest. Also requires FERC to make an additional finding that a transaction will not result in cross-subsidizations of associate companies to the detriment of the utility.

## **Title XIII – Studies**

Requires studies on a wide range of topics (see Committee Report).

## **Title XIV – Incentives for Innovative Technologies**

Provides terms and conditions for loan guarantees made by the Secretary. Cost of loan guarantee must be appropriated or paid by borrower. The guarantee cannot exceed 80 percent of the project cost and full payment must be made within the lesser of 30 years or 90 percent of the projected useful life of the asset. Provides other criteria regarding eligibility for loan guarantees, emission levels, and so on.

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## Cost

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The Congressional Budget Office estimates that implementing the bill would cost \$5.1 billion in 2006 and \$35.9 billion over the 2006-2010 period from appropriated funds, assuming appropriation of the necessary amounts.

CBO also estimates that enacting the bill would increase direct spending by \$728 million over the 2005-2010 period but would reduce direct spending by \$591 million over the 2005-2015 period. CBO estimates that enacting the bill would increase net revenues by \$75 million in 2006 and would result in a net loss of revenues totaling \$1.2 billion over the 2006-2010 period, and \$1.0 billion over the 2006-2015 period.

The bill contains numerous mandates as defined in the Unfunded Mandates Reform Act (UMRA) that would affect both intergovernmental and private-sector entities. Based on its analysis of the renewable fuels standard, CBO expects that the costs of the private-sector mandates in the bill will exceed the annual threshold established by UMRA (\$123 million in 2005, adjusted annually for inflation). CBO also estimates, however, that the total cost of complying with intergovernmental mandates in the bill would not exceed the threshold established in UMRA (\$62 million in 2005, adjusted annually for inflation).

The bill authorizes numerous grants and initiatives that would benefit state, local, and tribal governments; any costs those governments incur for these projects and initiatives would result from complying with conditions for receiving this federal assistance. Based on its review of the bill, CBO expects that the mandates contained in the bill's titles on renewable energy (title II), nuclear energy (title VI), electricity (title XII), and energy efficiency (title I) would have the greatest impact on private-sector entities and state and local governments.

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## Administration Position

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A Statement of Administration Policy was issued on June 14, 2005, and reads:

“The Administration strongly supports Senate passage of H.R. 6 and commends the Senate for developing balanced national energy legislation that is largely consistent with the Administration’s National Energy Policy. The bill would significantly benefit consumers by increasing energy supplies while protecting the environment and fostering greater competition in the marketplace. It also would improve the Nation’s energy security and reduce our dependence on foreign sources of oil by increasing the use and diversity of renewable energy sources and by reducing energy consumption through greater conservation and energy efficiency.”

The Administration strongly opposes the bill’s requirement to reduce U.S. petroleum demand by one-million barrels per day, arguing that, “The Administration believes that it would

effectively require a rapid, near-term increase in corporate average fuel economy (CAFE) standards, which would likely have undesirable safety impacts and may well be impossible to achieve under existing legal authorities.” The Administration would oppose amendments to set a national renewable portfolio standard; and amendments to legislate an arbitrary increase in CAFE standards that could reduce vehicle safety and eliminate auto sector jobs.

Regarding climate change, the Administration states that it, “is not convinced of the need for additional legislation with respect to global climate change, and will oppose any climate change amendments that are inconsistent with the President’s climate change strategy. In February 2002, the President committed the United States to an ambitious national goal to reduce the greenhouse gas intensity of the American economy by 18 percent over the next ten years. The President directed a broad range of domestic and international actions, including new initiatives for scientific research to develop advanced energy and sequestration technologies, and voluntary reporting of greenhouse gas emissions. The President’s climate change strategy provides for a continuing cabinet-level policy process to oversee and direct this comprehensive program.”

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## Other Views

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Senator Bingaman offered additional views in the committee report, laying out four fundamental principles that an energy bill should adhere to. First, the bill must increase supplies of energy from all available sources and assist underdeveloped energy resources. Second, it must secure an efficient energy transportation system by ensuring adequate investments in critical infrastructure. Third, it must reduce the impact of energy production and consumption on the environment. Fourth, sound energy policy requires energy markets that are transparent and fair to consumers. Senator Bingaman states that the Committee bill, on balance, meets these four tests, but notes that it fails to include major initiatives, such as a renewable portfolio standard, increased corporate average fuel economy standards for cars and trucks, or even close the so-called SUV loophole. He further states that, it does little to respond to the growing challenge of global warming.

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## Possible Amendments

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A large number of amendments are expected, including amendments to: reduce U.S. oil consumption; impose a Renewable Portfolio Standard; address climate change; remove the so-called SUV loophole; provide coastal states incentive for offshore energy productions; strip or modify Renewable Fuel Standard provisions in the bill; and address siting of natural gas import facilities.